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12/28/2000

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EXAMINER

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ART UNIT

PAPER NUMBER

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**GROUP 3600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/750,948  
Filing Date: December 28, 2000  
Appellant(s): VINCENT, PERRY G.

James M. Stover (Reg. No. 32,759)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed July 3, 2006 appealing from the Office action mailed January 4, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

"Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers." PR Newswire, page 9487, October 12, 1998.

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Andrews, Whit. "A Hidden Agenda." Internet World, pages 43, 44, October 1, 1999.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 4-6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Net Perceptions for Call Centers, as disclosed in "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers."

Claims 7, 8, and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Net Perceptions for Call Centers, as disclosed in "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers," as applied to claim 1 above, *in view of* Andrews ("A Hidden Agenda").

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Net Perceptions for Call Centers, as disclosed in "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers."

Net Perceptions discloses a method of suggesting an interaction strategy to a customer service representative in a customer relationship management environment, said method comprising the steps of:

[Claim 1] maintaining an interaction repository containing customer data (¶¶ 2-4);

utilizing one or more data analysis tools comprising executable instructions to analyze said customer data to determine one or more patterns and generate a set of rules based upon said patterns (¶¶ 2-4); and

using a recommendation engine to apply said rules to a current customer interaction to recognize one or more of said patterns in said interaction and suggest an interaction strategy corresponding to said recognized patterns (¶¶ 2-4);

[Claim 4] wherein said recommendation engine recognizes said patterns from said current customer interaction in real-time (¶¶ 2-4);

[Claim 5] wherein said customer data includes a customer interaction history with said business (¶¶ 2-4);

[Claim 6] wherein said patterns are individually determined for customers of said business (¶¶ 2-4);

[Claim 9] wherein said current customer interaction is a telephone contact with a call center representative (¶¶ 2-4).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8, and 10-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Net Perceptions for Call Centers, as disclosed in "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers," as applied to claim 1 above, *in view of* Andrews ("A Hidden Agenda").

[Claims 7, 8, 10] While "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" does not expressly disclose that the Net Perception for Call Centers recommendation engine captures data from a plurality of different interaction data sources, Andrews teaches that Net Perceptions does offer a recommendation engine that collects and analyzes data regarding customer interactions among various channels, including telephonic (i.e., physical) and online/Web (i.e., a virtual and self-service application) interactions (¶¶ 1, 4). This capability allows merchants to more comprehensively and successfully personalize product offerings made to customers, especially those that interact with the merchants through various channels (¶¶ 1, 4). As a matter of fact, the SkyMall implementation of Net Perceptions' recommendation engine, as disclosed by Andrews, is embodied in a call center environment (similar to Net Perceptions' packaged product, Net Perceptions for Call Centers); therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the product Net Perceptions for Call Centers to capture customer data from a plurality of different interaction data sources, including both physical and virtual channels (such as a self-

service application), in order to reap the full capabilities of Net Perceptions' recommendation engine in the call center environment, thereby allowing merchants to more comprehensively and successfully personalize product offerings made to customers, especially those that interact with the merchants through various channels (as suggested in ¶¶ 1, 4 of Andrews).

[Claims 11-15] Claims 11-15 recite limitations already addressed by the rejection of claims 1 and 4-10 above; therefore, the same rejection applies.

Furthermore, while Net Perceptions for Call Centers displays a prompt to agents with "pertinent customer information and specific purchase recommendations for whoever is on the line" (¶ 4 of "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers"), "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" does not expressly teach all of the details of Net Perceptions for Call Centers' user interface. For example, there is no express teaching that the user interface allows for inputting of data regarding said current interaction (claim 12) or a separate display panel for inputting notes that are used to determine recommendation strategies (claims 13 and 14); however, "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers" states that Net Perceptions for Call Centers pools "information from current and previous calls...As each inbound or outbound customer call proceeds, Net Perceptions for Call Centers prompts agents with pertinent customer information and specific purchase recommendations for whoever is on the line." (¶ 4) The fact that prompts are displayed to agents throughout the

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progression of the call (i.e., "Net Perceptions for Call Centers continuously builds customer profiles as each call progresses and uses the information to prompt agents with purchase recommendations that are unique to each customer," ¶ 2) implies that some interaction between the agent and the system occurs. In order to continuously build customer profiles during the call progression, input regarding the call interactions must somehow be documented. The Examiner submits that it is old and well-known in the art of call centers to provide call center agents with a display window at which he/she may enter specific details in reference to each call. For example, if a customer calls requesting information on a particular book, the agent may enter this information into the system. Net Perceptions for Call Centers needs some basic background information on each call in order to more effectively generate purchase recommendations. Since the call center agent directly deals with the customer, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Net Perceptions for Call Centers to provide the agent with a user interface for inputting of data regarding said current interaction (claim 12), including a separate display panel for inputting notes that are used to determine recommendation strategies (claims 13 and 14) in order to more effectively generate purchase recommendations based on the real-time progression of each call (as suggested by the fact that "Net Perceptions for Call Centers continuously builds customer profiles as each call progresses and uses the information to prompt agents with purchase recommendations that are unique to each customer," ¶ 2). Since the agent has the most direct contact with the customer during his/her communications with

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the call center, the Examiner submits that the agent has insight into some of the most valuable information regarding the customer's current needs, thereby making such perceptions entered by the agent crucial for a more efficient and successful marketing strategy.

[Claims 16-20] Claims 16-20 recite limitations already addressed by the rejection of claims 1 and 4-10 above; therefore, the same rejection applies. It should be noted that, by comparing a current customer to "other customers with similar buying patterns" (§ 4 of "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers"), one is detecting affinities to patterns. Since customer purchase histories, data from both current and previous calls, and data related to other customers with similar buying patterns are used to make a recommendation to a current customer (§§ 3-4 of "Net Perceptions Alters Dynamics of Marketing Industry with Introduction of Net Perceptions for Call Centers"), it is understood that the patterns may include customer product ownership, customer interaction history, customer interaction behavior, and product affinities.

#### **(10) Response to Argument**

Appellant argues, "It is not seen, however, that the Net Perceptions Publication teaches 'one or more data analysis tools comprising executable instructions to analyze said customer data to determine one or more patterns and generate a set of rules based upon said patterns' as part of the Net Perceptions call center solution." (Page 5 of the Appeal Brief and repeated on page 6 of the Appeal Brief) The Examiner respectfully disagrees. "Net Perceptions Alters Dynamics of Marketing Industry with

Introduction of Net Perceptions for Call Centers” specifically states that Net Perceptions “continuously builds customer profiles as each call progresses and uses the information to prompt agents with purchase recommendations that are unique to each customer” (¶ 2). This means that the Net Perceptions software evaluates, or analyzes, each customer profile in order to generate customized recommendations. The Net Perceptions software must be programmed to correlate specific customer profile data with a particular set of recommendations if the recommendations are to be customized for each customer. As a matter of fact, Net Perceptions’ “recommendation engine zeroes in on individual preferences by pooling information from current and previous calls, and by drawing upon a database of information on other customers with similar buying patterns” (¶ 4), thereby indicating that patterns of successful sales are gleaned from the patterns of “other customers with similar buying patterns.” Clearly, Net Perceptions analyzes customer data to determine one or more patterns. Then, the sales agent may be prompted to enter additional customer information and/or be provided with personalized recommendations for each customer. These instructions and/or output generated by Net Perceptions are not only based on rules, but may also be interpreted as rules generated by Net Perceptions and presented to the sales agent. Therefore, the Examiner submits that Net Perceptions indeed teaches “one or more data analysis tools comprising executable instructions to analyze said customer data to determine one or more patterns and generate a set of rules based upon said patterns.”

Appellant argues, “Neither the Net Perception Publication or Andrews, taken singularly or in combination, teaches ‘one or more data analysis tools comprising

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executable instructions for analyzing said customer data from said plurality of channels and determining one or more patterns from said data,' an element of each one of claims 11 through 15." (Page 6 of the Appeal Brief) The Examiner respectfully disagrees. As explained in the art rejection, Andrews teaches that Net Perceptions does offer a recommendation engine that collects and analyzes data regarding customer interactions among various channels, including telephonic (i.e., physical) and online/Web (i.e., a virtual and self-service application) interactions (§§ 1, 4). This capability allows merchants to more comprehensively and successfully personalize product offerings made to customers, especially those that interact with the merchants through various channels (§§ 1, 4). As a matter of fact, the SkyMall implementation of Net Perceptions' recommendation engine, as disclosed by Andrews, is embodied in a call center environment (similar to Net Perceptions' packaged product, Net Perceptions for Call Centers); therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the product Net Perceptions for Call Centers to capture customer data from a plurality of different interaction data sources, including both physical and virtual channels (such as a self-service application), in order to reap the full capabilities of Net Perceptions' recommendation engine in the call center environment, thereby allowing merchants to more comprehensively and successfully personalize product offerings made to customers, especially those that interact with the merchants through various channels (as suggested in §§ 1, 4 of Andrews). Appellant does not provide any explanation to support Appellant's assertion that the combination of Net Perceptions and Andrews

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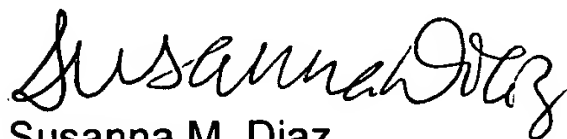
allegedly fails to address the limitation in question; therefore, Appellant's arguments are not persuasive.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

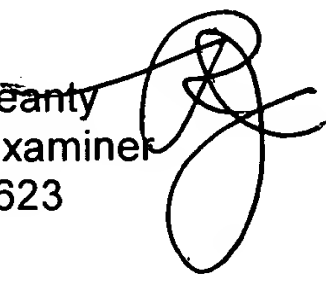


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